

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

IN RE:

COMPUTE NORTH HOLDINGS, INC.,
et. al.,¹

Debtors.

Case No. 22-90273

CHAPTER 11
(Jointly Administered)

Re: Docket Nos. 209 & 256

**NEBRASKA PUBLIC POWER DISTRICT'S OBJECTION TO THE
DEBTORS' ASSUMPTION AND ASSIGNMENT OF CONTRACTS
AND CURE AMOUNT IN CONNECTION WITH PROPOSED SALE**

Comes now, Nebraska Public Power District ("NPPD"), an interested party, and hereby objects to the assumption and assignment of certain contracts with NPPD and the Cure Amounts listed in the above-captioned debtors' (hereinafter collectively referred as the "Debtors") Notice of Filing of Cure Schedule in Connection with Proposed Sale (the "Cure Notice"). In support of its said Objection, NPPD states and alleges as follows:

1. NPPD is a publicly owned utility and political subdivision of the State of Nebraska. NPPD's headquarters is located in Columbus, Platte County, Nebraska.
2. The Debtors filed their respective Chapter 11 bankruptcy proceedings in *the United State Bankruptcy Court for the Southern District of Texas* (Houston Division) (hereinafter referred as the "Court") on or about September 22, 2022.
3. The Debtors filed the Notice with the Court on October 18, 2022 (ECF # 209).
4. Pursuant to the Court's Order issued on October 24, 2022 (the "Sale Order") (ECF # 256), NPPD's deadline to Object to the Cure Notice is November 1, 2022 by 4:00 p.m.

¹ The Debtors in these chapter 11 cases, along with the last four digits of each Debtor's federal tax identification number, include: Compute North Holdings, Inc. (4534); Compute North LLC (7185); CN Corpus Christi LLC (5551); CN Atoka LLC (4384); CN Big Spring LLC (4397); CN Colorado Bend LLC (4610); CN Developments LLC (2570); CN Equipment LLC (6885); CN King Mountain LLC (7190); CN Minden LLC (3722); CN Mining LLC (5223); CN Pledgor LLC (9871); Compute North Member LLC (8639); Compute North NC08 LLC (8069); Compute North NY09 LLC (5453); Compute North SD, LLC (1501); Compute North Texas LLC (1883); Compute North TX06 LLC (5921); and Compute North TX10 LLC (4238). The Debtors' service address for the purposes of these chapter 11 cases is 7575 Corporate Way, Eden Prairie, Minnesota 55344.

5. The Debtors' Cure Notice lists six (6) contracts that the Debtors contend are between NPPD and one or more of the Debtors (the "NPPD Contracts").

6. NPPD has not had sufficient time to confirm the cure amounts listed in the Notice.

7. One of the NPPD Contracts that was listed twice in the Cure Notice is a Transmission Facilities Construction Agreement at NPPD's Minden Substation dated February 17, 2022 (the "NPPD Construction Agreement"). The NPPD Construction Agreement requires the Debtors to post an Irrevocable Standby Letter of Credit (the "Letter of Credit"), which the Debtors have done (see Section 4.3 of the NPPD Construction Agreement). However, the Debtors have not complied with the terms of the NPPD Construction Agreement as a result of its failure to commence construction on or before July 1, 2022 (see Section 4.7 of the NPPD Construction Agreement). On the date these bankruptcies were filed, NPPD had the contractual right to terminate the NPPD Construction Agreement and proceed to make a demand on the Letter of Credit. The Notice states that the Cure amount associated with the NPPD Construction Agreement is zero (0). NPPD contends that since it has a contractual right to terminate the NPPD Construction Agreement and make a claim on the Letter of Credit, the Cure amount associated with this agreement should be the value of the Letter of Credit or **\$813,457.00**. As a result, the Debtors have not accurately stated the Cure amount for this agreement.

8. One of the NPPD Contracts listed in the Cure Notice is a Restated and Amended Agreement for EDR Electric Services (the "EDR Agreement"). This agreement can't be assumed by the Debtors because this agreement was not executed by NPPD.

9. Two of the NPPD Contracts listed in the Cure Notice are captioned Agreement for EDR Electric Service ("Second EDR Agreement") and Amendment No. 1 to Agreement for EDR Electric Service ("Amended EDR Agreement"). The Second EDR Agreement and Amended EDR Agreement can't be assumed by the Debtors because the Debtors are not parties to these agreements. These agreements were by and between NPPD and Compute North NE05, LLC and Southern Public Power District ("SPPD"). Upon information and belief, Compute North NE05, LLC is currently not a debtor in a bankruptcy proceeding.

10. One of the NPPD Contracts is a Non-Disclosure Agreement which NPPD entered into with one of the Debtors on or about May 16, 2019 (the "NDA"). NPPD has no objection to the NDA.

11. The Debtors' Cure Notice states that the NPPD Contracts, if assumed, will be done so in full satisfaction of all outstanding amounts due and owing on the NPPD Contracts and NPPD will be barred from asserting any other claims relating to the NPPD Contracts against any party that may assume the same. NPPD contends that should the Debtors assume and assign any of the NPPD Contracts, NPPD should not be barred from making post assumption claims against the transferee party.

12. NPPD reserves the right to Amend this Objection to assert any additional issues with any assignment and assumption and cure amount. In addition, NPPD reserves the right to object to adequate assurance of future performance in accordance with the United States Bankruptcy Code and the Sale Order.

13. Based on all of the foregoing, NPPD enters its Objection to the Cure Notice.

Dated this 1st day of November, 2022.

Respectfully submitted,

HALEY & OLSON, P.C.

By: /s/ Blake Rasner

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CERTIFICATE OF SERVICE

The undersigned certifies that a true and correct copy of the foregoing Objection has been served on all parties entitled to service via this Court's electronic filing system and the Objection Notice Parties via email on November 1, 2022.

Compute North Holdings, Inc.

Debtor

7575 Corporate Way

Eden Prairie, MN 55344

CN Mining LLC

Debtor

7575 Corporate Way

Eden Prairie, MN 55344

CN Corpus Christi LLC

Debtor

7575 Corporate Way

Eden Prairie, MN 55344

CN Pledgor LLC

Debtor

7575 Corporate Way

Eden Prairie, MN 55344

Compute North LLC

Debtor

7575 Corporate Way

Eden Prairie, MN 55344

CN Atoka LLC

Debtor

7575 Corporate Way

Eden Prairie, MN 55344

CN Big Spring LLC

Debtor

7575 Corporate Way

Eden Prairie, MN 55344

CN Colorado Bend LLC
Debtor
7575 Corporate Way
Eden Prairie, MN 55344

CN Developments LLC
Debtor
7575 Corporate Way
Eden Prairie, MN 55344

CN Equipment LLC
Debtor
7575 Corporate Way
Eden Prairie, MN 55344

CN King Mountain LLC
7575 Corporate Way
Eden Prairie, MN 55344

CN Minden LLC
Debtor
7575 Corporate Way
Eden Prairie, MN 55344

Compute North Member LLC
Debtor
7575 Corporate Way
Eden Prairie, MN 55344

Compute North NC08 LLC
Debtor
7575 Corporate Way
Eden Prairie, MN 55344

Compute North NY09 LLC
Debtor
7575 Corporate Way
Eden Prairie, MN 55344

Compute North SD, LLC
Debtor
7575 Corporate Way
Eden Prairie, MN 55344

Compute North Texas LLC
Debtor
7575 Corporate Way
Eden Prairie, MN 55344

Compute North TX06 LLC
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Compute North TX10 LLC
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